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JUDGE CASTILLO

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

15 CV 03250

LOUISE PARIS, LTD. and RAINBOW USA
INC.,

Plaintiffs,

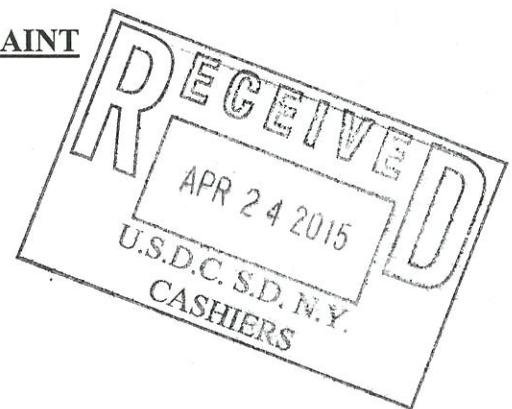
- against -

STANDARD FABRICS INTERNATIONAL,
INC.,

Defendants.

Civil Action No. _____

COMPLAINT



Plaintiffs Louise Paris, Ltd. ("Louise Paris") and Rainbow USA Inc. ("Rainbow") (collectively, "Plaintiffs"), by and through their undersigned counsel, complain of defendant Standard Fabrics International, Inc. ("Standard Fabrics"), and allege as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment arising under the copyright laws of the United States, 17 U.S.C. § 101, *et seq.* By this action, Plaintiffs seek a declaration that they have not infringed upon Standard Fabrics' purported copyright in a textile design allegedly contained in a collection registration titled "Spring Summer 2014, Collection 1" (the "7851 Design"), as set forth herein.

JURISDICTION AND VENUE

2. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) as an action arising under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a) since this action arises under the Copyright Act, Standard Fabrics conducts business in this judicial district, and a substantial part of the events giving rise to the claim herein occurred in this judicial district.

THE PARTIES

4. Plaintiff Louise Paris is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 1407 Broadway, Suite 1405, New York, New York 10018.

5. Plaintiff Louise Paris conducts business in the wholesale apparel industry, selling, marketing, and/or promoting clothing to retail establishments that sell to the public.

6. Plaintiff Rainbow is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 1000 Pennsylvania Avenue, Brooklyn, New York 11207.

7. Plaintiff Rainbow conducts business in the retail apparel industry, selling, marketing, and/or promoting clothing purchased from wholesalers, such as Louise Paris, to the public, including sales over the Internet.

8. Upon information and belief, Louise Paris is the wholesale supplier of the garments alleged to infringe Standard Fabrics' copyright in the 7851 Design (the "Accused Garments"), as asserted herein.

9. Upon information and belief, Standard Fabrics is a corporation organized and

existing under the laws of the State of California, with its principal place of business at 935 E 12th Street, Los Angeles, California 90021.

10. Upon information and belief, Standard Fabrics is in the business of importing and/or selling synthetic and blended fabrics to its customers in the United States and the State of New York.

11. Upon information and belief, Standard Fabrics transacts business within the State of New York and within this judicial district, derives revenue from intrastate and interstate commerce, and is otherwise subject to the jurisdiction of this Court.

12. Since Plaintiffs and Standard Fabrics each regularly transacts business in the State of New York and within this judicial district, jurisdiction of the Southern District of New York is appropriate for adjudication of the claim(s) brought herein.

FACTS GIVING RISE TO THIS ACTION

13. Standard Fabrics is the purported owner of Copyright Registration No. VA 1-894-565 for a collection of textile designs titled “Spring Summer 2014, Collection 1”. One of the individual textile designs included in the “Spring Summer 2014, Collection 1” is alleged to be the 7851 Design.

14. On or about April 7, 2015, Plaintiffs each received letters from counsel for Standard Fabrics, Scott Alan Burroughs, Esq. of the law firm Doniger / Burroughs.

15. In his letters, Mr. Burroughs asserts, *inter alia*, that Plaintiffs are “selling products, including without limitation, garments, which bear artwork that appears to be copied from [Standard Fabrics’] proprietary fabric designs” and that such “distribution and sale of merchandise bearing the material violates [Standard Fabrics’] exclusive rights, and renders [Plaintiffs] liable for copyright infringement.” Mr. Burroughs’ letters also demand that that Plaintiffs “immediately **cease and desist** from any and all uses of [Standard Fabrics’] fabric

design.” True and correct copies of Mr. Burroughs’ letters to Louise Paris and Rainbow are attached hereto as Exhibits A and B.

16. Upon information and belief, Standard Fabrics objects to all sales, offers for sale, advertising, marketing and/or promotional activities by Plaintiffs which relate to the Accused Garments on the basis that such garments infringe Standard Fabrics’ purported copyright in the 7851 Design. A true and correct copy of a CAD drawing of textile design used on the Accused Garments is attached hereto as Exhibit C.

17. By virtue of the foregoing, Plaintiffs are compelled to seek a declaration from this Court that the Accused Garments do not infringe Standard Fabrics’ purported copyright in the 7851 Design.

FIRST CLAIM FOR RELIEF

Declaration of Non-Infringement Under the Copyright Act

18. The allegations set forth in paragraphs 1 through 17 hereof are adopted and incorporated by reference as if fully set forth herein.

19. An actual controversy has arisen and now exists between Plaintiffs and Standard Fabrics concerning whether Plaintiffs have infringed Standard Fabrics’ purported copyright in the 7851 Design.

20. Plaintiffs have offered for sale and/or sold garments alleged to infringe Standard Fabrics’ copyright, including sales over the Internet.

21. Plaintiffs contend that the Accused Garments are not substantially similar to the 7851 Design, and do not infringe any valid copyright belonging to Standard Fabrics, including but not limited to Copyright Registration No. VA 1-894-565.

22. By virtue of the foregoing, Plaintiffs seek a judicial determination of the parties’ rights and duties with respect to Copyright Registration No. VA 1-894-565 and any other rights

asserted by Standard Fabrics.

23. A judicial declaration as to the parties' respective rights is necessary and appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Louise Paris, Ltd. and Rainbow USA Inc. pray for judgment as follows:

- A. For judgment declaring that the Accused Garments do not infringe any valid copyright belonging to Standard Fabrics, including but not limited to Copyright Registration No. VA 1-894-565;
- B. For an award of Plaintiffs' costs, expenses, and reasonable attorneys' fees as permitted by law; and
- C. For such other and further relief as the Court shall deem appropriate.

Dated: New York, New York
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